

Chapter 14

Utah Bioprospecting Act

Part 1

General Provisions

65A-14-101 Title.

This chapter is known as the "Utah Bioprospecting Act."

Enacted by Chapter 21, 2010 General Session

65A-14-102 Definitions.

As used in this chapter:

- (1)
 - (a) "Bioprospecting" means the removal from a natural environment for research or commercial use of:
 - (i) a naturally occurring microorganism, plant, or fungus; or
 - (ii) information concerning a naturally occurring microorganism's, plant's, or fungus' physical or genetic properties.
 - (b) "Bioprospecting" does not include:
 - (i) horticultural cultivation, except for horticultural genetic engineering conducted in a manner otherwise constituting bioprospecting;
 - (ii) an agricultural enterprise;
 - (iii) a forest and range management practice;
 - (iv) invasive weed management;
 - (v) Christmas tree and related sales; or
 - (vi) incidental removal of a microorganism, plant, or fungus while engaged in bona fide research or commercial enterprises.
- (2) "Nonfederal public land" means land in the state that:
 - (a) is not owned, controlled, or held in trust by the federal government; and
 - (b)
 - (i) is owned or controlled by:
 - (A) the state;
 - (B) a county, city, or town; or
 - (C) a governmental entity other than the federal government; or
 - (ii) is school and institutional trust lands, as defined in Section 53C-1-103.

Enacted by Chapter 21, 2010 General Session

65A-14-103 Scope of chapter.

- (1) This chapter does not modify or replace any other requirement under federal, state, or local law related to an act that under this chapter is considered bioprospecting, including any requirement to obtain the permission of a landowner.
- (2) This chapter applies only to non-federal public land.

Enacted by Chapter 21, 2010 General Session

65A-14-104 Rulemaking.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules necessary to fulfill the purposes of this chapter.

Enacted by Chapter 21, 2010 General Session

Part 2 Registration for Bioprospecting

65A-14-201 Registration for bioprospecting.

- (1)
 - (a) On and after July 1, 2011, before engaging in an act of bioprospecting, a person shall register with the division.
 - (b) A registration under this chapter expires on June 30 of each year.
- (2) To register with the division or renew a registration, a person shall:
 - (a) submit a registration form created by the division in accordance with Subsection (3); and
 - (b) pay a fee established by the division in accordance with Section 63J-1-504.
- (3) The division shall create, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a registration form for purposes of this chapter that includes:
 - (a) notice of the state's reservation of economic interests provided in Section 65A-14-202;
 - (b) a statement to be signed by a person who registers that states that the person agrees to negotiate as described in Section 65A-14-202; and
 - (c) a requirement that the person lists the locations at which the person anticipates bioprospecting during the 12-month period of the registration.

Enacted by Chapter 21, 2010 General Session

65A-14-202 Reservation of economic interests -- Agreement to negotiate in good faith.

- (1) The right of a person to engage in an act of bioprospecting in this state is subject to the state's reservation of any right the state may have to an economic benefit derived from:
 - (a) the act of bioprospecting;
 - (b) a microorganism, plant, or fungus removed from a natural environment in the state; or
 - (c) information concerning a microorganism's, plant's, or fungus' physical or genetic properties removed from a natural environment in the state.
- (2) A person may not engage in an act of bioprospecting in this state if the person, as part of the registration required under Section 65A-14-201, does not agree in writing to negotiate in good faith with the state if the state asserts an economic interest described in Subsection (1).

Enacted by Chapter 21, 2010 General Session

Part 3 Penalties

65A-14-301 Economic benefits of bioprospecting denied.

- (1) A person who engages in an act of bioprospecting in violation of this chapter is guilty of criminal trespass punishable in accordance with Section 76-6-206.
- (2) If found guilty of a violation under this chapter, a court may in addition to a penalty imposed under Section 76-6-206, order restitution that is proportional to the economic interests the state may have under Section 65A-14-202.

Enacted by Chapter 21, 2010 General Session